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6	IN THE UNITED STATES DISTRICT COURT
7	FOR THE DISTRICT OF ARIZONA
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9	Ivan Guerrero-Melchor,  ) No. CR-06-1143-PHX-ROS ) No. CV-11-1169-PHX-ROS
10	Petitioner, ) ORDER
11	VS. ORDER
12	United States of America,
13	Respondent.
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16	On September 27, 2011, United States Magistrate Judge Duncan issued a Report and
17	Recommendation. (Doc. 6). Plaintiff has not objected to the Report and Recommendation.
18	A district judge "may accept, reject, or modify, in whole or in part, the findings or
19	recommendations made by the magistrate judge." 28 U.S.C. § 636(b). Where any party has
20	filed timely objections to the magistrate judge's report and recommendations, the district
21	court's review of the part objected to is to be de novo. Id.; see also United States v. Reyna-
22	Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003); Schmidt v. Johnstone, 263 F. Supp. 2d 1219,
23	1226 (D. Ariz. 2003) ("Following Reyna-Tapia, this Court concludes that de novo review of
24	factual and legal issues is required if objections are made, but not otherwise.") (internal
25	quotations and citations omitted).
26	No objections being made, the Court will adopt the Report and Recommendation in
27	full.
28	Accordingly,

IT IS ORDERED the Report and Recommendation (Doc. 6) is ADOPTED.

IT IS ORDERED Petitioner's motion to vacate, set aside or correct sentence (Doc.1) is DENIED. The case is dismissed with prejudice.

**IT IS ORDERED** a Certificate of Appealability and leave to proceed *in forma* pauperis on appeal is denied because the denial of the motion is justified by a plain procedural bar and jurists of reason would not find the ruling debatable, and because Petitioner has not made a substantial showing of the denial of a constitutional right.

DATED this 2nd day of November, 2011.

Chief United States District Judge